

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 May 2020

The Regular Meeting of the Zoning Board of Appeals of Milford, CT, was remotely on Tuesday, 12 May 2020, beginning at 7:00 p.m. via ZOOM[®], to hear all parties concerning the following applications, some of which require Coastal Area Site Plan Reviews or exemptions.

A. PLEDGE OF ALLEGIANCE / ROLL CALL

Mr. Tuozzola called the meeting to order at 7:00 pm. He reviewed guidelines for online public meetings.

MEMBERS PRESENT: Sarah Ferrante; William Soda, Christine Valiquette, Chris Wolfe, Joseph Tuozzola (Ch)

ALTERNATES PRESENT: Michael Casey, Gary Dubois

MEMBERS/ALTERNATES ABSENT: Etan Hirsch

STAFF PRESENT: Stephen Harris, Zoning Enforcement Officer; Meg Greene, Clerk

B. CONSIDERATION OF AGENDA ITEMS

1. **5 Picket Street**, MBP 19/236/3, R-10, Priscilla Pearl Farley, agent, for Farley Properties LLC, owner; Vary Sec. 3.1.4.1 front-ym setback to 15.1' where 25' req. and front-ym setback to 11.1' where 25' req.; 6.3.2 expansion of nonconforming structure; all to construction new single family home.

Andrew Flanagan, LS, 1416 New Haven Ave, addressed the board. He said his client would demolish the existing structure and compared the current and proposed structures' dimensions. He noted the a corner lot, saying the 2 front yard setbacks constrain the permitted building area to a width of 15'. He said the current covered front porch was nonconforming and would be expanded creating a greater nonconformity.

DISCUSSION

Mr. Tuozzola confirmed that the original footprint was reducing some of the other setback nonconformities.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak in favor of or in opposition to the application. Hearing none, he closed the hearing. After a short discussion, there were no issues in dispute, so he asked for a motion.

Mr. Wolfe motioned to **approve**. **Mr. Soda** seconded. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

2. **17 Maddox Avenue and 20 Scott Street** MBP 27/451/11, R-5, Kevin Curseaden, Esq., for Ish Anand, owner; Vary 3.1.4 Side yard setback on the northwesterly property line of 5' where 10' required.

Attorney Curseaden addressed the board. He stated that old houses on the property were recently demolished, both of which were preexisting nonconforming. He noted that there are 2 front yards on the lot and claimed hardships stemming from the shape and size of lot, as well as wetlands on site. He said the new houses would be FEMA compliant.

DISCUSSION

Mr. Tuozzola discussed Scott Street with **Attorney Curseaden**, who said access to the new 2-family structure would be from Maddox, not Scott. He said the proposed structure would have a 5' decreased nonconformity in front. **Mr. Wolfe** clarified the parcel was not 2 separate lots.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 May 2020

FAVOR

Paul Marsala, 31 Maddox Avenue, said he was undecided about the project but that parking is limited in the area and having all access via Maddox would exacerbate the problem. He said he approved of replacing the houses. **Mr. Tuozzola** and **Attorney Curseaden** confirmed that 4 parking spaces will be situated under each house with additional parking on the driveway.

OPPOSED

Evdoxia Picarazzi, 15 Maddox Avenue, said she felt that a 5' setback was too close to her property. She expressed concern about the 2-family configuration.

Max Case, Esq., 185 Plains Rd, said he represented Scott McCloud, 16 Scott Street, and that the purchaser knew the lot and houses were nonconforming. He reviewed the history of the structures, which occurred prior to zoning. He said discussed how nonconformity is abandoned and said the regulations prohibit alteration of a nonconforming use. He said the prior nonconformity is being enlarged. He noted that the wetlands were also there during the purchase in 2019. He listed the various non-conformities. He stated that he had not heard a hardship described and that the entire neighborhood consisted of single-family homes. He compared surrounding lot sizes, saying this lot was not exceptional. He cited the Verillo v Branford ZBA case, saying it states that a small lot does not in and of itself create a hardship.

Muriel Leung, 16 Scott St, disputed that Mr. Anand has any hardship. She objected to the height and said the building coverage would be harmful to the neighboring wetlands.

Robert McCloud, 16 Scott Street, asked to share photos of the neighborhood. **Ms. Greene** asked that he submit the photos into the record via her email, which he agreed to. He showed images of homes on Maddox Avenue. He noted the presence of standing water on the lot and expressed concern that concrete lot coverage would increase runoff. He said the size of the house would be more than doubled. **Mr. McCloud** and **Mr. Tuozzola** discussed flooding and runoff.

Linda Taylor and **Mark Annand**, 10 Maddox Avenue, submitted a letter of opposition which Mr. McCloud read. Mr. McCloud said he would also submit that letter to the Ms. Greene.

REBUTTAL

Attorney Curseaden noted that the setback request does not abut either the McCloud or Picarazzi properties. He said issues about flooding and soils would be taken to the Inland Wetlands commission. He said the case law cited by Attorney Case was incorrect and had been superseded by an interpretation that a use must be proactively abandoned. He said the combination of 2 structures into 1 would reduce the overall setback issues and that the DPLU's interpretation of increasing nonconformity was consistent with the request. He said the standard is whether there is something unique about a property within the zone, not the neighborhood. He said Verillo deals with Branford's interpretation, rather than Milford's. He said only one variance was being requested and that local regulation and state statute allows previous nonconforming uses to remain.

OPPOSITION

Linda Taylor, 10 Maddox Avenue, questioned whether a demolished house must be rebuilt in the existing footprint. She reviewed expressed her disapproval of the size of the replacement home.

Mr. Tuozzola asked **Mr. Harris** about rebuilding on an existing footprint, who said if an elevation is being done in the existing footprint, no variance is required.

Ms. Taylor said the entire street floods and freezes in winter.

Mr. Harris suggested that the hearing be held open until June to allow additional submissions by the public.

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 May 2020

Attorney Case asked if comments would be supported in the next hearing. **Attorneys Case** and **Curseaden** disputed the applicability of Verillo. **Attorney Case** said if the Verillo would be interpreted, it should be rebuttable and should be opened to comments in June.

Mr. McCloud asked **Attorney Curseaden** to submit documents on the case he had cited. **Attorney Curseaden** agreed.

3. **1548 New Haven Avenue** MBP 82/787/1, R-7.5, Thomas Lynch, Esq., for SHIVAM USA. LLC, owner; Vary sec. 3.1.1.1 to permit two (2) dwelling units where one (1) dwelling unit is permitted.

Attorney Lynch addressed the board, stating that he represented the Patel family. He said his clients wished to do a major renovation of the building, which is close to the CDD-3 but zoned R-5. He described a 2400 sf cinderblock building and said the goal was to refurbish the building and put a second floor on top with 2 two-bedroom apartments. He said that despite the zoning, there are a variety of uses in the vicinity, including commercial spaces and affordable housing units. He said New Haven Avenue is a state highway that could accommodate one additional dwelling use. He said the size of the addition would create a space that would be unusually large for a single apartment. He said the commercial building was nonconforming and adding residential use could be said to reduce the nonconformity. He said the application would require a CAM be heard by the PZ Board.

DISCUSSION

Mr. Tuozzola confirmed that the proposed height would conform to the 35' limit for a single family home. **Mr. Soda** asked how big an addition would be added to the back of the building and was told it would be a 6' stair landing.

OPPOSED

Deborah Filanowski Craven, 11 Warner Street, said she did not get a notification. She said a security camera has caught images of her fence being damaged by delivery trucks for the business. She said there were many longstanding complaints with the business.

Jane Milligan, 5 Warner Street, said she didn't see a notice posted.

Sherry Knapp, 9 Warner Street, said she wished to see a building plan for the site. **Mr. Harris** said only surveys are required for ZBA applications. She expressed concern about parking and access if an extension is added to the rear of the building. She said the business is open until 9PM and there is parking, traffic and noise throughout the evening. She expressed confusion about zones. She said deliveries also cause traffic and parking problems. She said trash sometimes blows down Warner Street from the store. She complained about the amount of advertisement on the property.

Attorney Lynch confirmed via USPS documents that a letter was sent to Ms. Milligan and Ms. Knapp.

Russell Murray, 4 Warner Street, said his concerns about parking for beach access now would be exacerbated.

Ms. Milligan asked for more time to prepare opposing arguments.

Tina Andranovich, 1564 New Haven Avenue, said she got a letter. She said the parking was a problem now and there would be a compounding of that problem.

REBUTTAL

Attorney Lynch reiterated that notification requirements were met. He said there were 12 parking spaces on site, which should be adequate, but that it's the Planning and Zoning Board's function to review the adequacy of parking. He asked for a vote. **Ms. Ferrante** asked for a restatement of the hardship. He said the neighborhood was multiuse and imposing

Minutes, Public Hearing of Zoning Board of Appeals Meeting held 12 May 2020

the single family zoning requirement was burdensome. **Mr. Soda** expressed concern about adding residential uses to a commercial mix with existing traffic problems. **Ms. Ferrante** discussed requirements with Attorney Lynch.

Ms. Knapp asked for a clarification of the current zoning.

BOARD DISCUSSION

Mr. Tuozzola asked if anyone wished to speak further. Hearing none, he closed the hearing. Mr. Tuozzola expressed concern about parking. **Mr. Soda** was concerned about delivery trucks. **Mr. Harris** said the zone allows a single dwelling unit, so it can remain "as is," with 1 residential unit added by right. **Ms. Ferrante** thought this was adequate.

Mr. Soda motioned to **deny**. **Mr. Ferrante** seconded. **Mr. Soda** supported the motion based on lack of hardship. The motion carried with **Mss. Ferrante** and **Valiquette** and **Messrs. Soda, Wolfe** and **Tuozzola** voting **with the motion**.

C. NEW BUSINESS- None.

D. OLD BUSINESS-None

E. STAFF UPDATE-*Mr. Tuozzola asked about the public's ability to research files; Mr. Harris said this could be done by appointment. Ms. Greene added that DPLU staff has made a great effort to provide online access to submitted documents.*

F. ACCEPTANCE OF MINUTES 13 March 2020: Approved.

G. ACCEPTANCE OF APPLICATIONS for 9 June 2020 hearing.

Adjournment was at 8:43 PM.

Any other business not on the agenda to be considered upon two-third's vote of those present and voting. **ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, 203-783-3230, PRIOR TO THE MEETING IF POSSIBLE.**

Attest:

Meg Greene
Clerk, ZBA